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LETTER DATED 22 OCTOBER 1993 FROM THE PERMANENT REPRESENTATIVE OF THE LIBYAN ARAB JAMAHIRIYA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I refer to my letter of 11 October 1993 addressed to you, in which I informed you of the press release issued by the defence team for the two Libyan nationals on 10 October 1993 following its two-day meeting in Tripoli, and I have the honour to transmit to you herewith the following documents:

1. Statement of 27 September 1993 by an official source in the secretariat of the General People's Committee for Foreign Liaison and International Cooperation (annex I);

2. Agreed press release issued on 10 October 1993 by the defence team for the two Libyan nationals (annex II);

3. Statement issued by the Libyan Arab Human Rights Committee on 11 October 1993 (annex III);

4. Statement issued on 12 October 1993 by an official source in the General People's Committee for Foreign Liaison and International Cooperation (annex IV).

I should be grateful if you would have this letter and its annexes circulated as a document of the Security Council.

(Signed) Ali Ahmed ELHOUDERI
Permanent Representative

Annex I

Statement of 27 September 1993 by an official source in the secretariat of the General People's Committee for Foreign Liaison and International Cooperation

An official source in the secretariat of the General People's Committee for Foreign Liaison and International Cooperation has stated that the replies received to the legal questions posed by the attorneys for the two suspects were positive.

The General People's Committee for Foreign Liaison and International Cooperation affirms that the Secretary-General's letter on this matter is regarded as adequate and acceptable. We do not object to the two appearing before a Scottish court, and we urge them to agree to do so. We believe that all that remains to resolve a long-standing crisis that has caused our people and neighbouring peoples grave human, material and moral damage is a single step, namely that of persuading the two suspects, their families and their attorneys that the two should appear before a Scottish court.

Annex II

[Original: English]

Agreed press release issued on 10 October 1993 by the defence team for the two Libyan nationals

The legal advisers to Abdelbaset Ali Mohamed Al Megrahi ("Abdelbaset") and Al Amin Khalifa Fhima ("Al Amin") met in Tripoli for discussions on 8 and 9 October 1993. Present at some of the sessions were Abdelbaset and Al Amin, who confirmed again in the strongest terms their innocence of the charges and, notwithstanding their right under domestic and international law to remain in Libya, their willingness to stand a fair trial after due process of law.

The legal advisers discussed the fundamental rights of every accused, namely the right to be afforded a fair trial before an impartial tribunal, the maintenance of the presumption of innocence and the right to be given adequate time for the preparation of the case after being notified not only of the charges but also of the evidence the prosecution wish to adduce in support of the charges.

In the context of these discussions, grave concern was expressed over the possible prejudicial effect on potential jurors of pre-trial publicity in the United States and Scotland and also, in the absence of a normal extradition procedure, the refusal of the prosecution authorities to disclose the evidence upon which they intended to rely at any trial. The latter refusal seriously undermines the advisers' ability to prepare for the case properly.

All of these matters and others were exhaustively discussed and advice was tendered to Abdelbaset and Al Amin. It will be understood that the advisers' deliberations and the advice tendered by them to Abdelbaset and Al Amin are the subject of legal professional privilege and no details of it will be divulged beyond the terms of this memorandum.

The legal advisers have noted a statement issued on behalf of the Libyan Government on 1 October 1993, which, inter alia said:

> "... we are prepared to receive a group of competent judicial Scottish officials to be acquainted with our efforts and to interview the suspects, their families and their lawyers, as well as to participate in the efforts to persuade them to appear before a Scottish court."

This attempt by the Libyan Government to interfere with the advice given to the two men is totally unacceptable. In accordance with normal and accepted international legal practice, the advice to Abdelbaset and Al Amin has been and remains that they should not communicate with third parties about the case other than through their legal advisers. In particular, warrants having been issued by the judicial authorities in the United States and the United Kingdom, it would be improper and unethical for there to be any direct communication between the prosecution authorities, their Governments or their agents and either Abdelbaset or Al Amin.

The legal advisers wish to emphasize that they represent Abdelbaset and Al Amin and do not represent Libya. In their endeavours to perform their duties, professional ethics dictate that any advice given to their clients is aimed to reflect and protect their individual and personal interests and rights in law.

Following upon the decisions taken at the meetings, the legal advisers intend in the immediate future to contact both the Foreign Office in the United Kingdom and the State Department in the United States to discuss future progress.

Annex III

Statement issued by the Libyan Arab Human Rights Committee on 11 October 1993

The various information media have reported that a statement has been issued by the People's Bureau for Foreign Liaison and International Cooperation of the Jamahiriya to the effect that the Bureau does not object to the two suspects in the Lockerbie case appearing before a court in one of the two countries concerned (the United Kingdom and the United States of America) and that it even goes so far as to urge them to do so.

The Libyan Arab Human Rights Committee is of the view that the position adopted by the People's Bureau for Foreign Liaison and International Cooperation is in breach of the Libyan laws in force. These laws prohibit the State outright from extraditing its citizens to a foreign country, and such an action would also be incompatible with the human rights covenants and the norms of international law that affirm the human right to a just and fair trial. There can be no just and fair trial in the countries concerned in view of the wave of animosity and the frenetic campaigns against the two suspects in the media - radio, press and television alike - and of the statements made by certain officials of the two countries. This would render any trial in these countries unjust and unfair, inasmuch as their judicial systems are confronted with the prior condemnation of the two suspects.

Accordingly,

The Libyan Arab Human Rights Committee condemns and rejects the entire tenor of the statement of the People's Bureau for Foreign Liaison and International Cooperation and any other statements of a similar nature, because they constitute a violation of the laws in force, the norms of international law and the principles of human rights. In this connection, the Committee appeals for the support of all local, regional and international organizations in the human rights field in challenging any attempt to encroach upon the basic legitimate rights of these two citizens or to prejudice their case and in opposing any measures or pressures aimed at depriving them of the right to defend themselves before a just and fair court.

The Committee endorses the agreed press release issued by the attorneys for the two suspects, who are of various nationalities and include attorneys from the two countries involved, which indicates that there can be no just and fair trial in either country.

The Libyan Arab Human Rights Committee deprecates and rejects the position taken by the Libyan authorities dealing with foreign affairs and will continue to monitor closely any attempts to infringe upon the basic rights of these two citizens. It will cooperate with all human rights organizations, anywhere in the world, with a view to securing full respect for human rights and the norms of international law.

Annex IV

Statement issued on 12 October 1993 by an official source in the General People's Committee for Foreign Liaison and International Cooperation

An unnamed source in the General People's Committee for Foreign Liaison and International Cooperation has stated as follows:

"In its resolution 731 (1992), the Security Council calls upon the judicial authorities of the Great Jamahiriya to cooperate in the French judicial inquiries into the incident involving the UTA aircraft. Despite the complete cooperation, compliance and flexibility of the Libyan judicial authorities with the French investigating magistrate and despite the sustained positive contacts maintained with the French authorities concerned, France still refuses to resolve its problem with Libya. Rather than doing so, it links the resolution of this problem with that of the Lockerbie case, despite the fact that the French demands differ from those of the parties to that issue. France's insistence on linkage with the United States and the United Kingdom and its refusal to solve its problem with Libya reflect an extreme position that reminds us of the collusion among the racist regimes. It also constitutes procrastination by France in the implementation of Security Council resolution 731 (1992) and even an open violation of that resolution."